

**\*E-FILED 6/18/2009\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

WEI XIAN YANG,

No. C08-03956 HRL

Plaintiff,

v.

**ORDER PERMITTING CONDITIONAL  
WITHDRAWAL BY DEFENSE  
COUNSEL**

CHINA CHINA, INC. dba CHINA CHINA  
RESTAURANT AND BUFFET and CHUN  
JENN JI,

[Re: Docket No. 22]

Defendants.

Attorney Richard Wahng moves for leave to withdraw as counsel of record for defendants China China, Inc. and Jenn Ji Chu.<sup>1</sup> The stated reason for the withdrawal is that both defendants have advised that they will file for bankruptcy and are unable to pay for fees incurred in the defense of this matter. The record presented indicates that all parties have been duly served with the instant motion. No opposition or other response has been filed. Pursuant to Civ. L.R. 7-1(b), the court finds it appropriate to rule on the motion without oral argument, and the June 24, 2009 motion hearing is vacated.

“Counsel may not withdraw from an action until relieved by order of Court after written notice has been given reasonably in advance to the client and to all other parties who have appeared in the case.” Civ. L.R. 11-5(a). “In the Northern District of California, the conduct of counsel is governed by the standards of professional conduct required of members of the State

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<sup>1</sup> Defendants say that Chu was erroneously sued as “Chun Jenn Ji.”

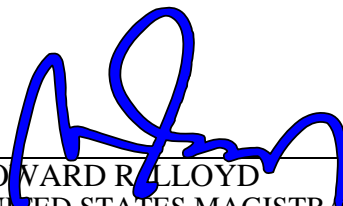
Bar of California, including the Rules of Professional Conduct of the State Bar of California.”  
Hill Design Group v. Wang, No. C04-521 JF (RS), 2006 WL 3591206 at \*4 (N.D. Cal., Dec.  
 11, 2006) (citing Elan Transdermal Limited v. Cygnus Therapeutic Systems, 809 F. Supp. 1383,  
 1387 (N.D. Cal.1992)). Those standards provide that an attorney may seek permission to  
 withdraw if, among other things, the client breaches an agreement or obligation to the attorney  
 with respect to payment of expenses or fees. Cal. Rules of Professional Conduct Rule 3-  
 700(C)(1)(f).

Based upon all the papers filed, defense counsel will be permitted to withdraw.  
 However, because there has been no simultaneous substitution of counsel nor any clear  
 indication of an intent to proceed pro se, defense counsel’s motion is granted subject to the  
 condition that papers may continue to be served on counsel for forwarding purposes unless and  
 until defendants appear by other counsel or pro se. Civ. L.R. 11-5(b). Wahng is directed to  
 serve a copy of this order on defendants and file a proof of service with the court.

Additionally, **defendant China China, Inc. is advised that it may not appear pro se  
 or through its corporate officers, but must retain new counsel forthwith to represent it in  
 this lawsuit.** See Civ. L.R. 3-9(b) (“A corporation, unincorporated association, partnership or  
 other such entity may appear only through a member of the bar of this Court”); see also  
Rowland v. California Men’s Colony, 506 U.S. 194, 201-02 (1993) (“It has been the law for the  
 better part of two centuries . . . that a corporation may appear in the federal courts only through  
 licensed counsel”) and In Re Highley, 459 F.2d 554, 555 (9th Cir. 1972) (“A corporation can  
 appear in a court proceeding only through an attorney at law”). **China China, Inc. is further  
 advised that it retains all of the obligations of a litigant, and its failure to appoint an  
 attorney may lead to an order striking its pleadings or entry of its default.**

SO ORDERED.

Dated: June 18, 2009

  
 HOWARD R. LLOYD  
 UNITED STATES MAGISTRATE JUDGE

**United States District Court**

For the Northern District of California

**5:08-cv-3956 Notice has been electronically mailed to:**

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Richard C. J. Wahng rwahng@legal-opinion.com, cjwahng@hotmail.com

**Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.**